

VZCZCXRO4052

OO RUEHAST RUEHBI RUEHCI RUEHDBU RUEHLH RUEHNEH RUEHPW  
DE RUEHNE #2357/01 3241401  
ZNR UUUUU ZZH  
O 201401Z NOV 09  
FM AMEMBASSY NEW DELHI  
TO RUEHC/SECSTATE WASHDC IMMEDIATE 8672  
INFO RUCNCLS/ALL SOUTH AND CENTRAL ASIA COLLECTIVE  
RUEHBJ/AMEMBASSY BEIJING 8105  
RUEHLO/AMEMBASSY LONDON 7017  
RUEHMO/AMEMBASSY MOSCOW 3793  
RUEHFR/AMEMBASSY PARIS 1999  
RUEHKO/AMEMBASSY TOKYO 6591  
RUEHUNV/USMISSION UNVIE VIENNA 1813  
RHEBAAA/DEPT OF ENERGY WASHINGTON DC  
RUEHGV/USMISSION GENEVA 8652  
RHEHAAA/WHITE HOUSE WASHDC  
RHEHNSC/NSC WASHDC

UNCLAS SECTION 01 OF 02 NEW DELHI 002357

SENSITIVE  
SIPDIS

ISN FOR RICHARD STRATFORD, L FOR JULIE HERR, DOE FOR RICH  
GOOREVICH

E.O. 12958: N/A

TAGS: [PGOV](#) [PREL](#) [PARM](#) [KNNP](#) [ENRG](#) [IN](#)

SUBJECT: INDIA PROVIDES PART 810 ASSURANCES ON NUCLEAR  
TECHNOLOGY TRANSFERS

REF: A. STATE 36818

[1](#)B. STATE 81498

[1](#)1. (SBU) The Ministry of External Affairs (MEA) conveyed by diplomatic note November 20 a document entitled "Assurances by the Government of India to the Government of the United States on Nuclear Technology Transfers" in reply to reftel demarches. These "Part 810" assurances constituted a key requirement for civil nuclear cooperation implementation for which Ambassador Roemer had pressed prior to Prime Minister Singh's visit to Washington, and a top priority for U.S. firms. The document appears to include the necessary assurances on civil use and non-retransfer, but does not list the companies that have sought Part 810 authorizations (GE-Hitachi Nuclear Energy, Westinghouse Electric Company LLC, and Transco Products Inc.) or the specific end users referenced in reftels. Delivery of the Part 810 assurances came a day after the cabinet approved draft liability legislation to be introduced in Parliament's winter session, and suggests a last-ditch effort to clear civil nuclear legacy issues prior to the Prime Minister's November 24 White House meetings.

[1](#)2. (SBU) ACTION REQUEST: Post requests guidance on (1) whether the assurances meet our legal standards, and (2) whether and how to seek the company-specific assurances for the end users specified in reftels pursuant to pending Part 810 license applications.

[1](#)3. (SBU) Begin Text:

"Agreement for Cooperation between the Government of India and the Government of the United States of America Concerning the Peaceful Uses of Nuclear Energy", - Assurances by Government of India to the Government of the United States on Nuclear Technology Transfers

With reference to US Ambassador's letter of 5 October 2009 to Chairman, AEC and Secretary, DAE, Government of India, referring to the India-US Civil Nuclear Initiative and in this context forwarding the 'Follow-Up Request for Indian Government Assurances for Nuclear Technology Transfer', the attention of the Government of the United States of America is drawn to the following.

[1](#)1. Cooperation between India and the USA in the area of civil

nuclear energy is to be implemented only in accordance with the provisions of the "Agreement for Cooperation between the Government of India and the Government of the United States of America Concerning the Peaceful Uses of Nuclear Energy", hereinafter referred to as the Bilateral Agreement.

¶2. Transfers under the Bilateral Agreement are subject to terms and conditions as specified in the Agreement and Article 2.3 provides for additional terms and conditions for transfers as may be agreed by the Parties. We note that the US expects India in this regard to agree to provide peaceful use assurances before information is transferred by US companies to their Indian counterparts.

¶3. It is mentioned that Article 2.3 provides for transfers of "nuclear material, nonnuclear material, equipment, components and information" between authorized persons and also states that transfers can be subject to the Bilateral Agreement only "upon confirmation, by the appropriate authority of the recipient Party to the appropriate authority of the supplier Party that such items will be both subject to the Agreement and have been received by the recipient Party." This implies that

a. A person in India who intends to enter into a commercial relationship, collaboration, cooperation or contract (hereinafter referred to as an 'arrangement') shall seek an authorization (hereinafter referred to as 'authorization') for such an arrangement from Government of India.

b. A person, who has been so authorized by Government of India, shall inform Government of India about his intent to

NEW DELHI 00002357 002 OF 002

receive items from persons in the United States of America and shall confirm to Government of India about the receipt of such items after their receipt.

c. Government of India, through its appropriate authority, will confirm to the appropriate authority of the United States that items have been received and will be subject to the Bilateral Agreement.

¶4. An item will thus be subject to the Bilateral Agreement only after all steps outlined in paragraph 3 have been completed and any information transferred will be subject to the assurances as follows.

a. The transferred information or technology will be used only for peaceful nuclear activities under IAEA safeguards.

b. The transferred information or technology will not be used for nuclear weapons or other nuclear explosive devices or for any military purpose.

c. The transferred information or technology will not be retransferred to any country other than the United States or to any other facility or end user within India without the prior consent of the U.S. Government.

¶5. Nuclear material, non-nuclear material, equipment, components, information or technology produced, acquired or developed by authorized persons independent of any nuclear material, non-nuclear material, equipment, components, information or technology transferred to them pursuant to this Agreement including assurances given with respect to transferred information or technology will not be subject to assurances set forth in paragraph 4 above or any of the terms and conditions of the Bilateral Agreement.

¶6. Government of India is pleased to convey assurances mentioned in paragraph 4 above to the Government of the United States with respect to the Nuclear Power Corporation of India Limited (NPCIL).

¶7. Other potential Indian recipients may approach Government of India to seek authorization for receiving information or technology from the United States as per the procedure for such authorization. In processing the requests for authorization, Government of India may seek additional

information as considered necessary in order to ensure that the transfers would be in accordance with the Bilateral Agreement.

End Text.

WHITE